IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 9015 of 2005

Between:

1 J.Murali Rao, S/o. J.Siddoji Rao, Piece Rate Labour,
Transhipment Shed at Guntakal, South Central Railway, Guntakal Division, Anantapur.
2 S.Abdul Kalam, S/o. Khaja Hussain, Piece Rate Labour,
Transhipment Shed at Guntakal, South Central Railway, Guntakal Division, Anantapur.

..... PETITIONERS

AND

1 Union of India, represented by its Secretary to Government, Railway Board, Ministry of Railway, New Delhi.
2 The General Manager, South Central Railway, Rail Nilyam, Secunderabad.
3 The Chief Commercial Manager, South Central Railway, Rail Nilyam, Secunderabad.
4 The Divisional Railway Manager, Guntakal Division, South Central Railway, Guntakal, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus: a) declaring the inaction of the respondents to absorb the petitioners herein permanently in any Group 'D' posts in Guntakal Division or in any other Division of S.C.Railway, as arbitrary, illegal, unwarranted, unconstitutional and in violative of Article 14 of 16 of the Constitution of India; b) to set aside the impugned

Judgment rendered in O.A.No.246/2002 dt.29-07-2004 of the Hon'ble Central Administrative Tribunal, Hyderabad Bench. Which order was passed without considering the judgment rendered by the Hon'ble Supreme Court of India, as well as the Central Administrative Tribunal in various cases, after declaring the same as arbitrary, illegal, unwarranted, misconceived and in violation of the Article 14-16 of the Constitution of India. c) to award costs to the petitioners and be pleased.

Counsel for the Petitioners: MR.P.V.S.S.S.RAMA RAO

Counsel for the Respondents: MR.G.S.SANGHI

The Court made the following:

ORAL ORDER: (per GB.J.)

The Writ Petition is filed assailing the order passed by the Central

Administrative Tribunal (for brevity Tribunal) in O.A.No.242 of 2002, dated 29.7.2004.

2. The matter relates to absorption of piece rate workers in Guntakal Transhipment Shed. Similarly situate persons, who were engaged prior to the writ petitioners, approached the Tribunal for regularization of services and ultimately the Supreme Court disposed of the matter directing the authorities to frame a scheme and in pursuance of the said Scheme, some of the persons were already absorbed, but, however, when the persons who were not covered by the decision of the Supreme Court approached the Tribunal in OA.No.1505 of 1997, the Tribunal disposed of the said OA on 21.12.1998 with the same directions. But when the petitioners, who were similarly situate as that of the persons in OA.No.1505 of 1997, approached the Tribunal, the Tribunal rejected their case and dismissed the OA. Against the said order, the present Writ Petition has been filed.

3. The learned counsel for the petitioners submits that when the Tribunal on earlier occasion has disposed of the OA with same directions and when the petitioners who stood on identical footing approached the Tribunal, the Tribunal ought to have issued similar directions. Even though the said fact was brought to the notice of the Tribunal, the Tribunal erroneously dismissed the OA. Therefore he seeks appropriate directions.

4. We have also heard the learned Standing Counsel for Railways.

5 . Inasmuch as similarly situate persons approached the Tribunal, the Tribunal disposed of their case with the following directions:

> **1) That the respondents shall examine whether the cases of the applicants are similar to the cases of 185 petitioners in SLP.No.4259 of 2001 for whom a scheme had been formulated in pursuance of the directions given in the said SLP even if the applicants are not in service on the date of closure of the transshipment shed at Guntakal.**
>
> 2. **That while examining the cases of the applicants their names should not be deleted on the sole ground that they were not engaged on the date of closure of transshipment shed at Guntakal.**
>
> 3. **That the respondents shall examine and record whether the**

applicants herein had at any point of time were engaged at Guntakal transshipment shed before its closure.

4. **That after examining the fact referred to above, if the applicants are found to be engaged either before or on the date of closure of the transshipment shed at Guntakal, they shall be given the same relief as per the directions of the Apex Court in SLP.No.4251 of 1991 except those who were not engaged as per record and those who were discharged due to reasons other than the reduction of activities in the transshipment shed.**

5. **That if the applicants got the benefit of the scheme, they will be absorbed only after all the petitioners in the previous OA.No.1017 of 1994 disposed of on 28.2.1997 have been absorbed.**

In view of the above directions, we do not find any reason not to grant such a relief to the petitioners herein, who are similarly situate.

6. Under these circumstances, we set aside the order of the Tribunal and dispose of this Writ Petition with the directions supra as were granted by the Tribunal in OA.No.1505 of 1997, dated 21.12.1998. The authorities concerned are directed to complete this exercise within a period of three (03) months from the date of receipt of a copy of this order. No costs.

(G.BIKSHAPATHY, J.)

27th April, 2005.

(P.S.NARAYANA, J.)

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary to Government, Railway Board,
Ministry of Railway, Union of India, New Delhi.
2 The General Manager, South Central Railway, Rail Nilyam,
Secunderabad.
3 The Chief Commercial Manager, South Central Railway, Rail Nilyam,
Secunderabad.
4 The Divisional Railway Manager, Guntakal Division,
South Central Railway, Guntakal, Anantapur District.

5 The Registrar, Central Administrative Tribunal, Hyderabad.

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